

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4839 of 1984

Date of decision: 2-8-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Mahendraprasad K. Bhatt

vs

Director General of Police

Mr. RC JANI for Petitioner

Mr. N. N. Pandya for Respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 02/08/96

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner, a police inspector, has filed this special civil application challenging his supersession in the matter of promotion to the post of Police Inspector made

in the year 1971. The petitioner was given promotion to the post of Police Inspector on 21st January, 1980. The criterion for promotion to the post of Police Inspector, as given out in para 4 of the reply to the writ petition filed by the respondent, was seniority cum merit. The case of the petitioner was considered for promotion in the year 1970, but he was not found suitable for the same by the Departmental Promotion Committee. The petitioner is claiming promotion on the post of Police Inspector with effect from 2-3-1970. In the reply the respondents have come out with the case that the case of the petitioner was considered for promotion in the year 1971, 1973, 1974, 1976 and 1977 by the Departmental Promotion Committee, but he was not found fit.

2. In the rejoinder to the reply the petitioner admitted that he was served with adverse remarks for the year 1968-69 vide letter of the Deputy Inspector General of Police on 19th June, 1970. It is not the case of the petitioner that against those adverse remarks he had made any representation. The petitioner has accepted those adverse remarks and in presence of those adverse remarks made, he has been superseded in promotion. I fail to see how the recommendations of the Departmental Promotion Committee can be said to be illegal or arbitrary or perverse. From the record it comes out that the petitioner was superseded in the matter of promotion to the post of Police Inspector in the year 1970, 1971, 1973, 1974, 1976 and 1977. Repeated supersession of the petitioner is suggestive of the fact that he was not having good service record. The petitioner has not been able to make out any case for interference of this Court. Departmental Promotion Committee is the best authority to adjudicate on the suitability of the petitioner. This court will not sit as an appellate authority over the decision of the Departmental Promotion Committee. In the matter of recommendations of Departmental Promotion Committee which is challenged in the special civil application, this Court sitting under Article 226 of the Constitution of India has very limited power of judicial review. It is not the case where the petitioner has challenged his supersession on the ground of malafides against any of the members of the Departmental Promotion Committee. Taking into consideration the fact that there were adverse remarks against the petitioner, as stated earlier, the decision of the Departmental Promotion Committee cannot be said to be arbitrary. The petitioner has failed to make out any case for interference of this Court under Article 226 of the Constitution of India.

3. Leaving apart the fact that there is no merit in the petition, this writ petition suffers from the vice of delay

and laches. It is true that normally after admission of the petition this Court would not dismiss the petition on technical ground, but that is not the accepted principle in all the cases. Delay in filing the petition against the impugned action has to be considered with reference to the rights accrued in favor of other persons in the meanwhile. The petitioner was superseded in the year 1970 and thereafter in many subsequent meetings of Departmental Promotion Committee. The petitioner has filed this special civil application on 27th July, 1984, that is, after more than 14 years of his supersession. In case the relief which has been prayed by the petitioner in this special civil application is granted, the petitioner will get seniority over many of his juniors who have been promoted. Promotions of those persons have not been questioned by the petitioner and they are also not before this Court. Any decision given by this Court behind the back of those persons may result in loss of seniority of those persons and further loss of future promotion.

4. Learned counsel for the petitioner contended that the petitioner had made representations from time to time and as such it cannot be said to be a case of delay and laches. I do not find any substance in this contention also. The petitioner made the first representation on 11th October, 1971. That representation was rejected by the Department on 28th March, 1972. After rejection of the representation, I fail to see any justification in the action of the petitioner in submitting further representation. The cause of action to challenge the supersession had accrued to the petitioner on 28th March, 1972. But he filed this writ petition after about 13 years. There is no explanation whatsoever, much less satisfactory explanation, for delay in filing the special civil application. After 1971 it appears that the petitioner has made representation on 9th February, 1978 and that too has been rejected by the Department on 30th June, 1978. If considered from the date of rejection of the second representation, the petitioner has filed this writ petition after six years. Any subsequent representation made by the petitioner is of no consequence. The petitioner cannot be allowed to keep the claim surviving by making repeated representations, more so when his representation was rejected in the year 1972 and again the second representation was rejected in the year 1978. The matter does not end here. The petitioner was promoted to the post of Police Inspector on 21st February, 1980. He filed this writ petition more than four years after his promotion. The delay not only defeats the cause but the remedy also in appropriate case.

5. In the result this writ petition fails and the same is dismissed. Rule discharged. No order as to costs.

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